UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA	)	
	)	No. 06 CR 729-2
vs.	)	Judge James B. Zagel
	)	
ALI ATA,	)	
Defendant.	)	

PLEA AGREEMENT

1. This Plea Agreement between the United States Attorney for the Northern District of Illinois, PATRICK J. FITZGERALD, and defendant ALI ATA, and his attorney, THOMAS K. MCQUEEN, is made pursuant to Rule 11 of the Federal Rules of Criminal Procedure and is governed in part by Rule 11(c)(1)(A), as more fully set forth below. The parties to this Agreement have agreed upon the following:

Charges in This Case

2. The Superseding Information in this case charges defendant with making materially false statements to federal law enforcement authorities, in violation of Title 18, United States Code, Section 1001, and making false statements on his federal individual income tax return, in violation of Title 26, United States Code, Section 7206(1).

3. Defendant has read the charges against him contained in the Superseding Information, and those charges have been fully explained to him by his attorney.

4. Defendant fully understands the nature and elements of the crimes with which he has been charged.

Charges to Which Defendant is Pleading Guilty

5. By this Plea Agreement, defendant agrees to enter a voluntary plea of guilty to the Superseding Information. Count One of the Superseding Information charges the defendant with making materially false statements to federal law enforcement authorities, in violation of Title 18, United States Code, Section 1001, and Count Two charges the defendant with making false statements on his 2002 federal individual income tax return, in violation of Title 26, United States Code, Section 7206(1).

Factual Basis

6. Defendant will plead guilty because he is in fact guilty of the charges contained in the Superseding Information. In pleading guilty, defendant admits the following facts relating to the charges and relevant conduct, that those facts establish his guilt beyond a reasonable doubt to the charges, and that the additional facts set forth herein constitute relevant conduct:

a. With respect to Count One of the Superseding Information: On or about December 1, 2005, the defendant knowingly and willfully did make materially false, fictitious, and fraudulent statements in a matter within the jurisdiction of the Federal Bureau of Investigation of the Department of Justice, an agency of the United States government, in that defendant stated orally to a Federal Bureau of Investigation Special Agent: (a) that he was not aware of any role that Antoin Rezko played in regards to his appointment to the position of Executive Director of the Illinois Finance Authority, whereas as defendant then knew such statement and representation was false, namely, that in fact Antoin Rezko was

instrumental in obtaining that position for the defendant; and (b) that he did not receive anything for his political contributions to the campaign of Public Official A, whereas as defendant then knew such statement and representation was false, namely, that in fact he did receive something for those contributions, specifically employment with a state agency, namely a position as Executive Director with the Illinois Finance Authority with an annual salary of approximately $127,000.

Specifically, in or about 2000 or 2001 at a luncheon meeting with Public Official A, defendant Ali Ata agreed to support Public Official A, who told the defendant at that meeting that Public Official A was contemplating a run for higher office and asked for the defendant's support. Thereafter, defendant Ali Ata observed that Antoin Rezko ("Rezko") was close to Public Official A and was very involved in fund-raising for Public Official A's campaign, including overseeing defendant Ali Ata's own fund-raising efforts on behalf of Public Official A.

In or about 2002, the defendant had several conversations with Rezko regarding the possibility of a high level appointment in state government should Public Official A be elected. At Rezko's direction, the defendant put together a list of three state agencies to which he would be interested in being appointed: the Capital Development Board, the Illinois Department of Transportation, and the Illinois Department of Human Services.

In or about August 2002, defendant Ata held a small fund-raising event for Public Official A that Public Official A attended. In advance of that fund-raising event, defendant

Ata committed to Antoin Rezko that he would raise $25,000 at that event, which he eventually did, personally contributing at least approximately $5,000.

Later that year, Rezko approached the defendant for additional monetary support. Defendant Ata agreed to contribute $25,000 in additional monies to the campaign of Public Official A. The defendant, subsequently and by prior arrangement with Rezko, brought a check in this amount to Rezko's Rezmar offices on Elston Avenue in Chicago. After he arrived at the Rezmar offices, the defendant was greeted by Rezko to whom he handed the check in an envelope. Rezko, carrying the check, ushered the defendant into a conference room where he met with Rezko and Public Official A. Rezko placed the envelope containing the defendant's $25,000 check to Public Official A's campaign on the conference room table between himself and Public Official A and stated to Public Official A that the defendant had been a good supporter and a team player and that the defendant would be willing to join Public Official A's administration. Public Official A expressed his pleasure and acknowledged that the defendant had been a good supporter and good friend. Public Official A, in the defendant's presence, asked Rezko if he (Rezko) had talked to the defendant about positions in the administration, and Rezko responded that he had.

After this meeting, the defendant completed an application for a state appointment. In or about early 2003, Rezko informed the defendant that he was going to be appointed to head the state Capital Development Board. Rezko subsequently informed the defendant that this position was going to someone else and that another position would have to be found for

the defendant. Later, Rezko discussed an opportunity for the defendant with the newly formed Illinois Finance Authority ("IFA").

In or about July 2003, Rezko asked the defendant to make an additional $50,000 contribution to the campaign of Public Official A. The defendant agreed to contribute the same amount as he had previously, namely $25,000. The defendant made this contribution on or about July 25, 2005 by check payable to Public Official A's campaign. The defendant gave this check to Rezko. Thereafter, the defendant had a conversation with Public Official A at a large fund-raising event at Navy Pier. During this conversation, Public Official A told defendant that he had been a good supporter, indicated that Public Official A was aware that the defendant had made another substantial donation to Public Official A's campaign, and told the defendant that Public Official A understood that the defendant would be joining Public Official A's administration. The defendant responded that he was considering taking a position, and Public Official A stated that it had better be a job where the defendant could make some money.

Thereafter, Rezko told the defendant that he could have the Executive Director position of the IFA on the condition that the defendant agree to report to Rezko. The defendant agreed, and thereafter met regularly with Rezko to keep him apprised of developments relating to the IFA and other matters. The defendant began working in an unofficial capacity in this position in late 2003, and was officially appointed the Executive Director of the IFA in January 2004 after the IFA Board voted on his nomination. Thereafter, the defendant continued to meet with Rezko regularly as previously agreed.

As a result of what he observed and heard, and what Rezko told him, from in or about 2003 to in or about 2005, the defendant came to believe that obtaining and retaining his job as Executive Director of the IFA depended in large measure on pleasing Rezko and that Rezko had a great deal of power in state government. Beginning in or around mid-2003 and continuing through 2004, the defendant provided large sums of cash to Rezko in response to persistent and urgent pressure from Rezko to do so. The defendant provided Rezko with tens of thousands of dollars in cash on four or five occasions during 2003 and 2004, including while he was the Executive Director of the IFA. In total, the defendant provided Rezko with approximately $125,000 in cash during this period, which monies he had withdrawn from a family food distribution business that he was then operating.

In addition, at Rezko's insistence and direction, the defendant typed and signed a letter on IFA letterhead addressed to Individual A dated February 25, 2004. The defendant understood that this letter would assist Rezko in some way in connection with selling or refinancing a pizza business that Rezko owned. This letter came about as follows. In or about January 2004, during a meeting at Rezko's Rezmar offices, Rezko told the defendant that he had a pizza restaurant business that Rezko wanted to sell; that the business was cash-flowing nicely; that the interest rate on the current loans for those restaurants was too high; and that Rezko wanted financial assistance from the IFA in connection with obtaining refinancing and selling this business. Rezko showed the defendant financial statements that suggested that the restaurants had a healthy net income. Rezko gave the defendant the name of an investment banker, Individual B, whom Rezko described as knowledgeable about the

IFA and a "team player," and stated that Individual B would work with the defendant to get this done.

At this point, the defendant accepted Rezko's representations regarding the financial condition of Rezko's pizza restaurant business. The defendant subsequently met with Individual B on two occasions and determined, based on what Individual B told him, that the only possible mechanism by which the IFA could provide financing for such a business was through its loan guarantee program, although extending its program to such a business was unprecedented and would need to be brought before the IFA Board for approval. In addition, the defendant had concerns regarding the possibility of negative publicity should the IFA extend any sort of financial assistance to a company associated with Rezko. The defendant informed Rezko of these conclusions and that written materials including an application and financial statements would need to be provided. Rezko agreed to provide the necessary documentation.

However, on or about February 25, 2004, before any such documentation had been provided, Rezko contacted the defendant and told the defendant that he needed the defendant to write a letter immediately and deliver it to Rezko. Rezko told the defendant to whom to address the letter, and what the letter should say, and represented that the necessary financial information would be available for the defendant when he delivered the letter. Rezko edited the wording of the letter, and then the defendant signed the letter and took it to Rezko. Contrary to Rezko's assurance, no financial information was made available to the defendant when he delivered the letter nor was it provided at anytime thereafter despite the defendant's

requests. The defendant wrote the letter because he believed Rezko's assurance that a formal application would be forthcoming, that the restaurant business was financially sound and thus it presented a legitimate opportunity for IFA financing, and because he felt that he would lose his job if he refused.

Shortly after writing the letter, the defendant had second thoughts about having provided it to Rezko in these circumstances and sought the assistance of Individual B and Individual C, an IFA Board member, in convincing Rezko that the IFA should not entertain financially assisting his pizza business in this manner. Shortly thereafter, the defendant, accompanied by Individuals B and C, met with Rezko and told him that the IFA would not be providing any financing for the pizza restaurant business.

On or about December 1, 2005, approximately eight months after resigning as Executive Director of the IFA, the defendant was interviewed by a Special Agent of the Federal Bureau of Investigation. The defendant understood at this time that federal law enforcement was investigating Rezko and others. During that interview, the defendant was asked if he was promised anything in connection with any of his campaign contributions. The defendant lied in response to this question, saying that he had not, and concealed from the law enforcement agent his true dealings with Rezko, Public Official A, and others. Further, the defendant lied when asked whether he had received anything of value in exchange for his contributions, when in fact he believed that Rezko and Public Official A appointed him to a high level state position as a direct result of his large campaign contributions.

During this interview, the defendant also lied about his awareness of Rezko's involvement in his IFA appointment and his recollection about his conversations with Rezko about his appointment. At the time of the interview by law enforcement, the defendant well-knew that Rezko had played a crucial and integral role in his appointment. The defendant intentionally lied to the FBI agent about Rezko's role in his appointment by telling her falsely that the defendant was not aware of any role that Rezko played in his appointment, and that he did not recall what if anything Rezko said to him about his appointment, and further by concealing that he effectively reported to Rezko while in that position. In response to detailed questions regarding his authorship of the aforementioned February 25, 2004 letter, the defendant provided incomplete, false, and misleading responses, and concealed Rezko's true involvement in the wording and creation of that letter. Defendant acknowledges and agrees that his campaign contributions and appointment to state office were matters material to the ongoing federal investigation.

In addition, although he was asked during this interview questions about his financial relationship with Rezko, the defendant intentionally concealed that he paid Rezko approximately $125,000 in cash to appease Rezko during 2003 and 2004 so that he could obtain a state appointment and then ensure its continuation. In addition, although asked to detail all of his financial dealings with Rezko, the defendant intentionally concealed the fact that in 2003 he had provided to Rezko, at Rezko's insistence, a portion of his partnership interest in a real estate venture, in exchange for Rezko's use of his influence in state government to reverse a state agency's decision to terminate a lease agreement relating to

that venture's property located at 59th Street and Ashland Avenue in Chicago. In addition, in discussing a business venture that he had called Addison Venture LLC and his financial relationships more generally, the defendant concealed that he, his Addison Venture LLC partners, and others had engaged in a tax fraud scheme, described further below. The defendant also concealed that earlier in 2005 Rezko obtained a position for the defendant with a business that had a large state contract.

The defendant also falsely stated that he submitted only one name for potential employment for the state when, in fact, as he well knew, he submitted at least three such names through Rezko, and expected that Rezko would use his influence to obtain state jobs for these individuals. Two of these individuals in fact received state employment.

b. With respect to Count Two of the Superseding Information, the defendant admits:

On or about November 12, 2003, in the Northern District of Illinois, Eastern Division, defendant Ali Ata willfully did make and subscribe, and caused to be made and subscribed, a United States Individual Income Tax Return (Form 1040) for the calendar year 2002, on behalf of himself and his wife, which return was verified by a written declaration that it was made under the penalties of perjury and was filed with the Internal Revenue Service, which return he did not believe to be true and correct as to every material matter, in that it falsely stated on line 8 of Schedule D (Capital Gains and Losses) that he had sold his interest in Addison Venture LLC on January 15, 2002 for $700,000, when he well knew those statements to be false; as a result of these false statements, and his failure accurately to report

his correct income attributable to Addison Venture LLC on line 5 of Schedule D, namely approximately $1.086 million net short term capital gain, the defendant caused the reported total taxable income at line 41 of the Form 1040 to be inaccurate, namely that the total income was $0, whereas the defendant then and there well-knew and believed that his and his wife's total income for the year 2002 substantially exceeded that amount since he had under-reported and mischaracterized the capital gain attributable to his interest in Addison Venture LLC, all in violation of Title 26, United States Code, Section 7206(1).

Specifically, in or about late 1999, the defendant entered into a contract to purchase undeveloped real property at Addison and Kimball in Chicago, Illinois. As part of that contract, the defendant expended approximately $100,000 in earnest money towards this purchase and engaged the services of an attorney, to whom he paid approximately $10,000 in connection with this contract for acquisition.

Thereafter, the defendant agreed with another individual to form a partnership with another individual, Individual D. In or about November 2000, the partners formed an Illinois Limited Liability Company called Addison Venture LLC for the purpose of acquiring and developing this property. The defendant agreed to assign the real estate contract to Addison Venture LLC.

On or about September 12, 2001, Addison Venture LLC purchased the real property at Addison and Kimball in Chicago for a total purchase price of approximately $8 million with the intent to develop that property for residential use. On or about August 23, 2002, Addison Venture LLC sold the property for approximately $12.4 million.

After he learned about the sale, the defendant expressed to his partner and others, including Individual E, that he was concerned about the tax implications of the sale of property in a time span of less than a year, namely, that he would be required to pay the higher short term capital gains tax on this income. Indeed, the defendant was aware that Limited Liability Companies ("LLC"s) are treated as partnerships for federal income tax purposes, and that an LLC is required to file the appropriate forms with the Internal Revenue Service on a yearly basis and report its income and expenses. He was also aware that each partner in an LLC is required to report his or her share of income and expenses on his or her federal income tax return (Form 1040) which information is provided to each partner by the LLC on a Schedule K-1. He was further aware that the tax rate applying to so-called short term capital gains, namely income resulting from the sale of assets held less than 12 months, is higher than that applicable to long term capital gains.

Consequently, in connection with the Addison Venture LLC land sale, the defendant, as a one-third partner in that LLC was required to report his share of the LLC's income and expenses for calendar year 2002 on his personal income tax return for 2002, and understood that this income was approximately $1.2 million.

After the defendant expressed concerns to his partners regarding the tax liabilities in connection with the Addison Venture LLC land sale, the Addison Venture LLC partners all agreed, with the assistance of Individual E, to make it falsely appear that the defendant sold his partnership interest in Addison Venture LLC before the August 2002 closing. As part of this scheme, the partners executed a false backdated contract that made it appear (falsely) that

the defendant had sold his interest to a partner on January 15, 2002, well before the August 2002 closing. They also caused Addison Venture LLC to issue the defendant a false and fraudulent 2002 Form K-1, namely a Form K-1 that did not accurately reflect the income from this business that Addison Venture LLC distributed to the defendant in 2002.

Thereafter, the defendant caused his tax preparer to create a federal income tax return, which included a Form 1040 and Schedule D, that falsely characterized the Addison Venture LLC transaction. Specifically, the 2002 Schedule D attached to his Form 1040, falsely stated on line 8 (Long Term Capital Gains and Losses) that the defendant had sold his interest in Addison Venture LLC on or about January 15, 2002, when in fact, as the defendant well-knew he had never sold his partnership interest in that venture. Further, the defendant knowingly failed to include, on line 5 of Schedule D, the true amount of his short term capital gain, namely approximately $1.086 million. By falsely characterizing his income as a long term capital gain rather than accurately as a short term capital gain, and understating the amount of that gain by approximately $496,000, the defendant caused the total taxable income reported on line 41 of his 2002 Form 1040 to be significantly understated, and consequently the tax due and owing on his total taxable income to substantially understated.

7. The foregoing facts are set forth solely to assist the court in determining whether a factual basis exists for defendant's plea of guilty, and are not intended to be a complete or comprehensive statement of all the facts within defendant's personal knowledge regarding the charged crimes and related conduct.

Maximum Statutory Penalties

8. Defendant understands that the charges to which he is pleading guilty carry the following statutory penalties:

a. Count One carries a maximum sentence of 5 years' imprisonment. Count One also carries a maximum fine of $250,000. Defendant further understands that, with respect to Count One, the judge also may impose a term of supervised release of not more than three years.

b. Count Two carries a maximum sentence of 3 years' imprisonment. Count Two also carries a maximum fine of $250,000. Defendant further understands that the Court must order costs of prosecution, estimated not to be more than $500. Defendant further understands that, with respect to Count Two, the judge also may impose a term of supervised release of not more than one year.

c. In accord with Title 18, United States Code, Section 3013, defendant will be assessed $100 on each count to which he has pled guilty, in addition to any other penalty imposed.

d. Therefore, under the counts to which defendant is pleading guilty, the total maximum sentence is 8 years' imprisonment. In addition, defendant is subject to a total maximum fine of $500,000, mandatory costs of prosecution, a period of supervised release, and special assessments totaling $200.

Sentencing Guidelines Calculations

9. Defendant understands that in imposing sentence the Court will be guided by the United States Sentencing Guidelines. Defendant understands that the Sentencing

Guidelines are advisory, not mandatory, but that the Court must consider the Guidelines in determining a reasonable sentence.

10. For purposes of calculating the Sentencing Guidelines, the parties agree on the following points, except as specified below:

a. **Applicable Guidelines**. The Sentencing Guidelines to be considered in this case are those in effect at the time of sentencing. The following statements regarding the calculation of the Sentencing Guidelines are based on the Guidelines Manual currently in effect, namely the November 2007 Guidelines Manual.

b. **Offense Level Calculations.**

i. For the Count One of the Superseding Information:

(1) The base offense level for the charge in Count One of the Superseding Information is 6 pursuant to Guideline §2B1.1(a)(1)(A).

(2) The parties agree that no enhancements apply, and therefore the total offense level for this offense is 6.

ii. For Count Two of the Superseding Information:

(1) The base offense level is determined, pursuant to Guideline §2T1.1(a)(1), by the amount of the tax loss pursuant to Guideline §2T4.1.

(2) The parties agree that, based on preliminary calculations, the tax loss occasioned by the defendant's false statements on his 2002 federal individual income tax return caused a tax loss of at approximately $150,000, and thus based on this preliminary calculation the final offense level for this count is level 16 pursuant to Guideline §§2T1.1(a)(1) and 2T1.4(F); however, the parties recognize that this tax loss figure is preliminary and that the parties have the right to present evidence so a definitive tax loss calculation can be reached by the court at sentencing;

iii. With respect to grouping of offenses, the parties agree:

(1) The false statement offense and the tax offense do not fall into the same offense group pursuant to Guideline §3D1.2;

(2) Pursuant to Guideline §3D1.4, the tax offense receives one grouping unit and the false statement receives no grouping unit, and that as a result no offense level is added.

iv. Defendant has clearly demonstrated a recognition and affirmative acceptance of personal responsibility for his criminal conduct. If the government does not

receive additional evidence in conflict with this provision, and if defendant continues to accept responsibility for his actions within the meaning of Guideline §3E1.1(a), including by furnishing the United States Attorney's Office and the Probation Office with all requested financial information relevant to his ability to satisfy any fine that may be imposed in this case, a two-level reduction in the offense level is appropriate.

v. In accord with Guideline §3E1.1(b), defendant has timely notified the government of his intention to enter a plea of guilty, thereby permitting the government to avoid preparing for trial and permitting the Court to allocate its resources efficiently. Therefore, as provided by Guideline §3E1.1(b), if the Court determines the offense level to be 16 or greater prior to determining that defendant is entitled to a two-level reduction for acceptance of responsibility, the government will move for an additional one-level reduction in the offense level.

c. **Criminal History Category.** With regard to determining defendant's criminal history points and criminal history category, based on the facts now known to the government, defendant's criminal history points equal zero and defendant's criminal history category is I.

d. **Anticipated Advisory Sentencing Guidelines Range.** Therefore, based on the facts now known to the government, the anticipated offense level is level 13, which, when combined with the anticipated criminal history category of I, results in an anticipated advisory Sentencing Guidelines range of 12 to 18 month's imprisonment, in

addition to any supervised release, fine, special assessment, costs of prosecution, and restitution the Court may impose.

e. Defendant, his attorney, and the government acknowledge that the above Guideline calculations are preliminary in nature and based on facts known to the parties as of the time of this Plea Agreement. Defendant understands that the Probation Office will conduct its own investigation and that the Court ultimately determines the facts and law relevant to sentencing, and that the Court's determinations govern the final Guideline calculation. Accordingly, the validity of this Agreement is not contingent upon the probation officer's or the Court's concurrence with the above calculations, and defendant shall not have a right to withdraw his plea on the basis of the Court's rejection of these calculations.

f. Defendant understands that the Guideline calculations set forth above are non-binding predictions, upon which neither party is entitled to rely, and are not governed by Fed.R.Crim.P. 11(c)(1)(B). Errors in applying or interpreting any of the Sentencing Guidelines may be corrected by either party prior to sentencing. The parties may correct these errors either by stipulation or by a statement to the Probation Office or the Court, setting forth the disagreement regarding the applicable provisions of the Guidelines. The validity of this Plea Agreement will not be affected by such corrections, and defendant shall not have a right to withdraw his plea, nor the government the right to vacate this Plea Agreement, on the basis of such corrections.

Cooperation

11. Defendant agrees he will fully and truthfully cooperate with the United States Attorney for the Northern District of Illinois in any matter in which he is called upon to cooperate by the representatives of the United States Attorney's Office. This cooperation shall include providing complete and truthful information in any investigation and pre-trial preparation as well as complete and truthful testimony in any criminal, civil or administrative proceeding. Defendant agrees to the postponement of his sentencing until after the conclusion of his cooperation.

Agreements Relating to Sentencing

12. At the time of sentencing, the government shall make known to the sentencing judge the extent of defendant's cooperation. If the government determines that defendant has continued to provide full and truthful cooperation as required by this Plea Agreement, then the government shall move the Court, pursuant to Guideline §5Kl.l, to depart downward from the low end of the applicable Guideline range. Defendant understands that the decision to depart from the applicable guidelines range rests solely with the Court. The government will make no recommendation regarding the sentence to be imposed.

13. If the government does not move the Court, pursuant to Sentencing Guideline §5K1.1, to depart from the applicable Guideline range, as set forth above, the preceding paragraph of this Plea Agreement will be inoperative, and the Court shall impose a sentence taking into consideration the factors set forth in 18 U.S.C. § 3553(a) as well as the Sentencing Guidelines without any downward departure for cooperation pursuant to §5K1.1. Defendant may not withdraw his plea of guilty because the government has failed to make a motion pursuant to Sentencing Guideline §5K1.1.

14. It is understood by the parties that the sentencing judge is neither a party to nor bound by this Plea Agreement and may impose a sentence up to the maximum penalties as set forth above. Defendant further acknowledges that if the Court does not accept the sentencing recommendation of the parties, defendant will have no right to withdraw his guilty plea.

15. Defendant further understands that the Court must order restitution in this case in the amount of the tax loss determined by the Court at sentencing. The defendant further understands that this criminal restitution amount may be different than any civil penalties, fees and assessments imposed as part of a possible civil audit by the IRS. Pursuant to Title 18, United States Code, Section 3663(c), the parties agree that the defendant owes approximately $150,000 to the Internal Revenue Service.

16. Defendant agrees to pay the special assessment of $200 at the time of sentencing with a cashier's check or money order payable to the Clerk of the U.S. District Court.

17. After sentence has been imposed on the counts of the Superseding Information to which defendant pleads guilty as agreed herein, the government will move to dismiss the indictment pending as to this defendant.

Presentence Investigation Report/Post-Sentence Supervision

18. Defendant understands that the United States Attorney's Office in its submission to the Probation Office as part of the Pre-Sentence Report and at sentencing shall fully apprise the District Court and the Probation Office of the nature, scope and extent of defendant's conduct regarding the charges against him, and related matters. The government will make known all matters in aggravation and mitigation relevant to the issue of sentencing, including the nature and extent of defendant's cooperation.

19. Defendant agrees to truthfully and completely execute a Financial Statement (with supporting documentation) prior to sentencing, to be provided to and shared among the

Court, the Probation Office, and the United States Attorney's Office regarding all details of his financial circumstances, including his recent income tax returns as specified by the probation officer. Defendant understands that providing false or incomplete information, or refusing to provide this information, may be used as a basis for denial of a reduction for acceptance of responsibility pursuant to Guideline §3E1.1 and enhancement of his sentence for obstruction of justice under Guideline §3C1.1, and may be prosecuted as a violation of Title 18, United States Code, Section 1001 or as a contempt of the Court.

20. For the purpose of monitoring defendant's compliance with his obligations to pay a fine during any term of supervised release or probation to which defendant is sentenced, defendant further consents to the disclosure by the IRS to the Probation Office and the United States Attorney's Office of defendant's individual income tax returns (together with extensions, correspondence, and other tax information) filed subsequent to defendant's sentencing, to and including the final year of any period of supervised release or probation to which defendant is sentenced. Defendant also agrees that a certified copy of this Plea Agreement shall be sufficient evidence of defendant's request to the IRS to disclose the returns and return information, as provided for in Title 26, United States Code, Section 6103(b).

Acknowledgments and Waivers Regarding Plea of Guilty

Nature of Plea Agreement

21. This Plea Agreement is entirely voluntary and represents the entire agreement between the United States Attorney and defendant regarding defendant's criminal liability in case number 06 CR 729-2.

22. This Plea Agreement concerns criminal liability only. Except as expressly set forth in this Agreement, nothing herein shall constitute a limitation, waiver or release by the United States or any of its agencies of any administrative or judicial civil claim, demand or cause of action it may have against defendant or any other person or entity. The obligations of this Agreement are limited to the United States Attorney's Office for the Northern District of Illinois and cannot bind any other federal, state or local prosecuting, administrative or regulatory authorities, except as expressly set forth in this Agreement.

23. Defendant understands that nothing in this Plea Agreement shall limit the Internal Revenue Service (IRS) in its collection of any taxes, interest or penalties from defendant and his spouse or defendant's partnership or corporations. Defendant understands that the amount of tax as calculated by the IRS may exceed the amount of tax due as calculated for the criminal tax case.

a. Defendant agrees to transmit his original records, or copies thereof, and any additional books and records which may be helpful, to the Examination Division of the Internal Revenue Service so that the Internal Revenue Service can complete its civil audit of defendant and his wife for the year 2002.

b. Preliminary to or in connection with any judicial proceeding, as that term is used in F.R.Cr. P. 6(e), defendant will interpose no objection to the entry of an order under Rule 6(e) authorizing disclosure of those documents, testimony and related investigative materials which may constitute grand jury material. Defendant will not object to the government soliciting consent from third parties, who provided information to the grand jury pursuant to grand jury subpoena, to turn those materials over to the Civil Division, appropriate federal or state administrative agency or the Internal Revenue Service, for use in civil or administrative proceedings or investigations, rather than returning them to such third party for later summons or subpoena in connection with the civil case or collection of taxes from defendant.

Waiver of Rights

24. Defendant understands that by pleading guilty he surrenders certain rights, including the following:

a. Defendant understands that he has a right to have the charges prosecuted by an indictment returned by a concurrence of twelve or more members of a legally constituted grand jury consisting of not less than sixteen and not more than twenty-three members. By signing this Agreement, defendant knowingly waives his right to be prosecuted by indictment and to assert at trial or on appeal any defects or errors arising from the Superseding Information, the Superseding Information process, or the fact that he has been prosecuted by way of Superseding Information.

b. Defendant has the right to persist in a plea of not guilty to the charges against him, and if he does, he would have the right to a public and speedy trial.

c. The trial could be either a jury trial or a trial by the judge sitting without a jury. Defendant has a right to a jury trial. However, in order that the trial be conducted by the judge sitting without a jury, defendant, the government, and the judge all must agree that the trial be conducted by the judge without a jury.

d. If the trial is a jury trial, the jury would be composed of twelve citizens from the district, selected at random. Defendant and his attorney would participate in choosing the jury by requesting that the Court remove prospective jurors for cause where actual bias or other disqualification is shown, or by removing prospective jurors without cause by exercising peremptory challenges.

e. If the trial is a jury trial, the jury would be instructed that defendant is presumed innocent, that the government has the burden of proving defendant guilty beyond a reasonable doubt, and that the jury could not convict him unless, after hearing all the evidence, it was persuaded of his guilt beyond a reasonable doubt and that it was to consider each count of the Superseding Information, separately. The jury would have to agree unanimously as to each count before it could return a verdict of guilty or not guilty as to that count.

f. If the trial is held by the judge without a jury, the judge would find the facts and determine, after hearing all the evidence, and considering each count separately,

whether or not the judge was persuaded that the government had established defendant's guilt beyond a reasonable doubt.

g. At a trial, whether by a jury or a judge, the government would be required to present its witnesses and other evidence against defendant. Defendant would be able to confront those government witnesses and his attorney would be able to cross-examine them.

h. At a trial, defendant could present witnesses and other evidence in his own behalf. If the witnesses for defendant would not appear voluntarily, he could require their attendance through the subpoena power of the Court. A defendant is not required to present any evidence.

i. At a trial, defendant would have a privilege against self-incrimination so that he could decline to testify, and no inference of guilt could be drawn from his refusal to testify. If defendant desired to do so, he could testify in his own behalf.

j. **Waiver of appellate and collateral rights.** Defendant further understands he is waiving all appellate issues that might have been available if he had exercised his right to trial. Defendant is aware that Title 18, United States Code, Section 3742 affords a defendant the right to appeal his conviction and the sentence imposed. Acknowledging this, if the government makes a motion at sentencing for a downward departure pursuant to Sentencing Guideline § 5K1.1, defendant knowingly waives the right to appeal his conviction, any pre-trial rulings by the Court, and any part of the sentence (or the manner in which that sentence was determined), including any term of imprisonment and

fine within the maximums provided by law, and including any order of restitution or forfeiture, in exchange for the concessions made by the United States in this Plea Agreement. In addition, defendant also waives his right to challenge his conviction and sentence, and the manner in which the sentence was determined, in any collateral attack or future challenge, including but not limited to a motion brought under Title 28, United States Code, Section 2255. The waiver in this paragraph does not apply to a claim of involuntariness, or ineffective assistance of counsel, which relates directly to this waiver or to its negotiation.

k. Defendant understands that by pleading guilty he is waiving all the rights set forth in the prior sub-paragraphs a through j. Defendant's attorney has explained those rights to him, and the consequences of his waiver of those rights.

Other Terms

25. Defendant agrees to cooperate with the United States Attorney's Office in collecting any unpaid fine for which defendant is liable, including providing financial statements and supporting records as requested by the United States Attorney's Office.

26. Defendant agrees to cooperate with the IRS in any tax examination or audit of defendant and his spouse and defendant's partnerships or corporations which directly or indirectly relates to or arises out of the course of conduct which defendant has acknowledged in this Plea Agreement, by transmitting to the IRS original records or copies thereof, and any additional books and records which the IRS may request. Nothing in this paragraph precludes defendant from asserting any legal or factual defense to taxes, interest, and penalties that may be assessed by the IRS.

27. Defendant understands that the government has the right to seek defendant's truthful testimony before a grand jury or a district court.

28. If the defendant abides by every part of this letter agreement and the plea agreement entered into with the United States Attorney's Office for the Northern District of Illinois, the United States agrees not to seek additional criminal charges in the Northern District of Illinois against the defendant for events that occurred in the Northern District of Illinois and that he has described in his proffers provided to the United States prior to the entry of his plea agreement. However, nothing in this agreement or the plea agreement will limit the United States in prosecution of the defendant in other districts or for crimes not disclosed in proffer statements prior to the entry of his plea agreement. Further, nothing in this Plea Agreement limits the government in any way from prosecution of defendant for any criminal activity by defendant occurring after the date of this Plea Agreement.

Conclusion

29. Defendant understands that this Plea Agreement will be filed with the Court, will become a matter of public record, and may be disclosed to any person.

30. Defendant understands that his compliance with each part of this Plea Agreement extends throughout the period of his sentence, and failure to abide by any term of the Agreement is a violation of the Agreement. Defendant further understands that in the event he violates this Agreement, the government, at its option, may move to vacate the Agreement, rendering it null and void, and thereafter prosecute defendant not subject to any of the limits set forth in this Agreement, or may move to resentence defendant or require

defendant’s specific performance of this Agreement. Defendant understands and agrees that in the event that the Court permits defendant to withdraw from this Agreement, or defendant breaches any of its terms and the government elects to void the Agreement and prosecute defendant, any prosecutions that are not time-barred by the applicable statute of limitations on the date of the signing of this Agreement may be commenced against defendant in accordance with this paragraph, notwithstanding the expiration of the statute of limitations between the signing of this Agreement and the commencement of such prosecutions.

31. Should the judge refuse to accept defendant's plea of guilty, this Plea Agreement shall become null and void and neither party will be bound thereto.

32. Defendant and his attorney acknowledge that no threats, promises, or representations have been made, nor agreements reached, other than those set forth in this Plea Agreement to cause defendant to plead guilty.

33. Defendant acknowledges that he has read this Plea Agreement and carefully

reviewed each provision with his attorney. Defendant further acknowledges that he understands and voluntarily accepts each and every term and condition of this Agreement.

AGREED THIS DATE: _____

PATRICK J. FITZGERALD United States Attorney	ALI D. ATA Defendant
CAROLYN F. MCNIVEN Assistant U.S. Attorney	THOMAS K. MCQUEEN Attorney for Defendant